

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

MAR 10 2003

OFFICE OF  
MANAGING DIRECTOR

Mr. William M. Barnard  
Smithwick & Belendiuk, P.C.  
5028 Wisconsin Ave., N.W.  
Suite 301  
Washington, D.C. 20016

Re: RKM Media, Inc. (Station WNYS-TV)  
Fee Control No. 00000RROG-03-069

Dear Mr. Barnard:

This is in response to your letter of December 9, 2002, filed on behalf of RKM Media, Inc. (RKM) and its principal, Ronald W. Philips, requesting waiver of the late charge penalty for late payment of the regulatory fees for fiscal year (FY) 2002 for Station WNYS-TV, Syracuse, New York. Our records reflect that **RKM** paid the FY 2002 regulatory fee of ~~\$3,875.00~~ on December 3, 2002, but that it has not paid the late charge penalty of \$968.75 for late payment of the regulatory fee. (The regulatory fee should have been paid no later than September 25, 2002.)

In your request, you indicate that the FY 2002 regulatory fee of \$3,875.00 was timely submitted on September 19, using Mr. Philips's MasterCard, but that the charge was not processed due to the fraudulent use and subsequent cancellation of the credit card. Attached to your request is a letter from Mr. Philips, explaining that on September 20 he discovered substantial unauthorized charges to his credit card and immediately informed MasterCard, which cancelled his card and issued him a **new** one. He states further that he first learned that the regulatory fee was not accepted by MasterCard when Claudette Pride of the Commission contacted him on September 26. According to Philips, he immediately faxed her a copy of his Form 159, along with his new Mastercard number, and he contacted your office when the charge did not appear on a subsequent creditcard statement.

The Communications Act of 1934, as amended, requires that the Commission assess a late charge penalty of 25 percent on the amount of any regulatory fee not paid in a timely manner. **See 47 U.S.C. § 159(c)(1); 47 C.F.R. § 1.1164** (a payment will be considered late filed if the payment instrument (check, money order, bank draft, or credit card) is uncollectible). It is the obligation of the licensee responsible for payment of the regulatory fee to ensure that the Commission receives the fee payment by the final date on which regulatory fees are due for the year.

Your request does not establish that RKM fulfilled this requirement or otherwise provide a basis for relief. The delay in paying the regulatory fee allegedly stemmed from the September 20, 2002 cancellation of Mr. Philips's MasterCard, at his request, due to fraudulent use. But Mr. Philips did not take steps to ensure that, despite these events, MasterCard had processed the September 19 charge and that the Commission would receive the regulatory fee of \$3,875.00 for FY 2002 no later than the September 25, 2002 deadline. And, in any event, your request does not demonstrate extraordinary and compelling circumstances clearly overriding the public interest in the Commission being reimbursed in a timely manner for its regulatory costs, or otherwise establish that waiver of the congressionally-mandated 25 percent late payment penalty would serve the public interest. We therefore deny your request for waiver of RKM's late charge penalty for late payment of the regulatory fee.

Payment of RKM's late charge penalty of \$968.75 for late payment of the FY 2002 regulatory fee for Station WNYS-TV is now due. The late charge penalty should be submitted, together with a Form 159 (copy enclosed) within 30 days of the date of this letter. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Reger", with a stylized flourish at the end.A small, stylized handwritten mark or initial, possibly "MR", located to the left of the printed name.

Mark Reger  
Chief Financial Officer

Enclosure

00000 RROG-03-069.

LAW OFFICES  
**SMITHWICK & BELENDIUK, P.C.**

5028 WISCONSIN AVENUE, N.W.

SUITE 301

WASHINGTON, D.C. 20016

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GARY S. SMITHWICK  
ARTHUR V. BELENDIUK

DIRECT DIAL NUMBER: (202) 537-8003  
E-MAIL ADDRESS: [nevisbill@aol.com](mailto:nevisbill@aol.com)

COUNSEL

WILLIAM M. BARNARD  
JAMES K. EDMUNDSON  
ELLEN MANDELL EDMUNDSON

December 9, 2002

Marlene H. Dortch, Esquire  
Secretary  
Federal Communications Commission  
236 Massachusetts Avenue, N.E.  
Suite 110  
Washington, D.C. 20002

Attention: Andrew S. Fishel  
Office of the Managing Director  
FCC, Room 1-C152

In re: WNYS-TV, Syracuse, New York  
2002 Annual Regulatory Fee Filing

Dear Mr. Fishel:

On behalf of RKM Media, Inc., licensee of Station WNYS-TV, Syracuse, New York, submitted herewith is a letter from Mr. Ronald W. Philips, its principal, explaining the unusual circumstances in connection with payment of his 2002 Annual Regulatory Fee Filing.

As explained in Mr. Philips' letter, the 2002 Annual Regulatory Fee in the amount of \$3,875.00 was timely submitted to the FCC on September 19, 2002 by credit card. Unfortunately, due to fraudulent use of Mr. Philips' credit card, the card had to be cancelled and a new card was immediately issued. Mr. Philips was advised by Ms. Claudette Pride of the FCC that the credit charge had not accepted the charge. Mr. Philips explained the situation to Ms. Pride and immediately provided to her (via fax) a corrected Form 159 with new credit card information. For your convenience, a copy of the revised Form 159 is enclosed.

Upon reconciliation of Mr. Philips' credit card statement, it was discovered that the FCC regulatory feecharge had not been processed. This office has been in contact

RECEIVED JAN 28 2003

SMITHWICK & BELENDIUK, P.C.

Marlene H. Dortch, Esquire  
December 9, 2002  
Page 2

NOV 20 10 37 12

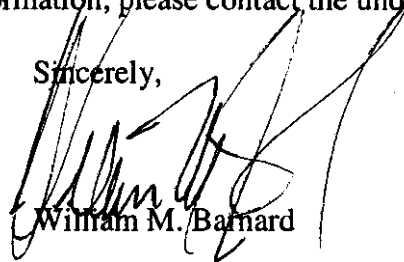
RECEIVED  
FCC

with Ms. Pride, and we were advised to file the attached letter from the licensee explaining the circumstances surrounding this year's regulatory fee filing.

Due to the extraordinary circumstances surrounding this year's ~~fee~~ payment, it is respectfully requested that the FCC waive any late penalty in connection therewith.

If any question arises in connection with this submission, or if the Commission should require any additional information, please contact the undersigned.

Sincerely,



William M. Barnard

WMB/sls  
Enclosure

cc with enclosure: Ms. Claudette Pride, FCC, Room 1-A821

**RKM MEDIA INC.  
137 SPYGLASS LANE  
FAYETTEVILLE, NEW YORK 13066  
(315) 637-5530**

December 5, 2002

12/05/02  
11:17

To: Federal Communications Commission  
From: Ronald W. Philips  
Re: WNYS-TV Syracuse NY  
Facility LD. No. 58725  
2002 Annual Regulatory Fee Filing

On Sept. 19, 2002 my Attorney's office submitted on my behalf the FCC Regulatory Fee Payment Form 159. Payment of \$3,875.00 was made by Master Card as noted on the bottom of the form.

On Sept. 20, 2002 I discovered that persons **unknown** in Baltimore MD had charged \$9,777.80 against my card. I immediately informed Master Card and they cancelled my existing card and issued me a new one.

On **Sept.** 26, 2002 I responded to a phone message from Ms. C. Pride stating that Master Charge had not accepted the credit charge. I explained what had happened to Ms. Pride and she gave me her FAX number 412-209-6045 and asked me to send her a copy of my 159 form with the new Master Card number. This was done within minutes following our conversation.

Upon reconciling my last statement, I discovered that the FCC charge had still not been processed and made several unsuccessful calls **trying to** reach Ms. Pride. On Nov. 20, 2002 I called my attorney's office and asked Sherry Schunemann to contact Ms. Pride and discuss what must be done **to** resolve the situation. On the **same** date, I sent a copy of my Sept. 26<sup>th</sup> FAX and cover sheet to Sherry for her to present to Ms. Pride should you need the documentation.

I **am** well aware of deadlines and the need for penalties, however in this particular case the unusual circumstances that seemed to take control and the potential loss of over \$9,000 places me on my knees with my hat in hand asking you to please wave the late charge. If you check our record, you will find no history of tardiness.

**Thank** you for your consideration and look forward to your response.

Sincerely,



Ronald W. Philips

READ INSTRUCTIONS CAREFULLY  
BEFORE PROCEEDINGFEDERAL COMMUNICATIONS COMMISSION  
REMITTANCE ADVICEApproved by OMB  
3060-0589  
Page No 1 of 1

(1) LOCKBOX #

358835

SPECIAL USE

FCC USE ONLY

## SECTION A - PAYER INFORMATION

(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card)

RKM Media, Inc.

(3) TOTAL AMOUNT PAID (U.S. Dollars and cents)

\$3,875.00

(4) STREET ADDRESS LINE NO. 1

127 Spyglass Lane

(5) STREET ADDRESS LINE NO. 2

(6) CITY

Fayetteville

(7) STATE

NY

(8) ZIP CODE

13066

(9) DAYTIME TELEPHONE NUMBER (include area code)

315-637-5530

(10) COUNTRY CODE (if not in U.S.A.)

USA

## FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED

(11) PAYER (FRN)

0003-7448-51

(12) PAYER (TIN)

16-1489877

IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B  
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)

(13) APPLICANT NAME

Same as shown above

(14) STREET ADDRESS LINE NO. 1

(15) STREET ADDRESS LINE NO. 2

(16) CITY

(17) STATE (18) ZIP CODE

(19) DAYTIME TELEPHONE NUMBER (include area code)

(20) COUNTRY CODE (if not in U.S.A.)

## FCC REGISTRATION

## FR (FRN) / NI TAX IDENTIFICATION NUMBER (TIN) REQUIRED

(21) APPLICANT

(22) APPLICANT (TIN)

## COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(23A) CALL SIGN/OTHER ID

WNYS-TV

(24A) PAYMENT TYPE CODE

0262

(25A) QUANTITY

1

(26A) FEE DUE FOR (PTC)

\$3875.00

(27A) TOTAL FEE

\$3875.00

FCC USE ONLY

(28A) FCC CODE 1

(29A) FCC CODE 2

(23B) CALL SIGN/OTHER ID

(24B) PAYMENT TYPE CODE

(25B) QUANTITY

(26B) FEE DUE FOR (PTC)

(27B) TOTAL FEE

FCC USE ONLY

(28B) FCC CODE 1

(29B) FCC CODE 2

## SECTION D - CERTIFICATION

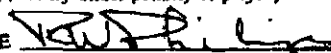
(30) CERTIFICATION STATEMENT

I, Ronald W. Philips

, certify under penalty of perjury that the foregoing and supporting information is true and correct to

the best of my knowledge, information and belief.

SIGNATURE



DATE 9/16/02

## SECTION E - CREDIT CARD PAYMENT INFORMATION

(31) New Card -&gt;

MASTERCARD/VISA ACCOUNT NUMBER:

5416 6100 1738 10209  
5416 6100 1738 10209

EXPIRATION

01/8/31/04

☒ MASTERCARD☐ VISA

I hereby authorize the FCC to charge my VISA or MASTERCARD for the service(s)/authorization herein described.

SIGNATURE



DATE 9/16/02

FROM : PHILIPS

FAX NO. :

Dec. '16 2002 09:57AM P2

**Federal Communications Commission  
BILL FOR COLLECTION**

FOR INFORMATION CALL  
1-202-418-1888  
[Revenue & Receivables Ops Group]

Bill Number	Current Bill Date
0018000200	12/10/02

PAYER FONE	APPLICANT FONE
0002741881	0003744851

RKM Media Inc  
 137 Spyglass Ln  
 Fayetteville, NY 13066

Payable to:  
Federal Communications Commission  
Send a copy of this bill to:  
Federal Communications Commission  
REVENUE & RECEIVABLE OPER.  
P.O. BOX 358340  
PITTSBURGH, PA 15251-8340

Total Amount Due		Due Date
\$55.75	Total Amount Due must be Received By	1/05/03

**SPECIAL INSTRUCTIONS (OPTIONAL)**

AYER FCC REGISTRATION NUMBER (FRN) REQUIRED

ASSESS penalty for late regulatory fee payment not received by 09/25/02

FCN: 0212050035019001 CALL SIGN: WNYSTV

PAYER ADDRESS: RKN Media Inc  
137 Spaylans Ln

Frontville, NY 13066

~~please write your bill number on your remittance.~~  
~~please attach a copy of this bill to your payment to ensure proper credit.~~

PTC	Quantity	Fee Due
0288	1	958.75
Total Due		958.75

Payment Method: ☒ Check ☐ (Attach)  
☐ Credit Card ☐ (Complete Below)



**American Express**



**Discover**

ACCOUNT NO:

[illegible]

**X91704190:**

--	--

Month

--	--

**Year**

I hereby authorize the FCC to charge my Credit Card for the service(s) / authorization(s) herein described.

**MINISTER OF DEFENCE**

**On the**

Law Offices  
Smithwick & Belendiuk, PC  
5028 Wisconsin Avenue, N.W., Suite 301  
Washington, D.C. 20016  
Telephone: 202-363-4050  
Facsimile 202-363-4266  
www.FCCLAW@FCCWORU.COM

Gary S. Smithwick  
Arthur V. Belendiuk

Counsel:  
William M. Barnard

---

To: Tom Putnam, FCC

From: Sherry Schunemann/William Barnard's Office

In re: WNYS-TV

Date: January 29, 2003

Client: 876

Fax Number: 202-418-2843

Total Number of Pages (including this page): 2

Comments:

A hard copy will follow by:

Courier:

1" Class Mail

Federal Express/UPS

A hard copy will not follow: xx

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Law Offices  
Smithwick & Belendiuk, P.C.  
5028 Wisconsin Avenue, N.W., Suite 301  
Washington, D.C. 20016  
Telephone: 202-363-4050  
Facsimile 202-363-4266  
[www.FCCLAW@FCCWORLD.COM](mailto:www.FCCLAW@FCCWORLD.COM)

Gary S. Smithwick  
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AR012-A  
1/30/2003  
9:51:39

RAMIS ACCWNTS RECEIVABLE - (C) DSG, Inc.  
RECEIPTS DETAIL REPORT  
SORTED BY TRANSACTION DATE, CD NO., FEE CONTROL NO.

PAGE 1  
1/30/2003  
9:51:39

CD NO.	CD DATE	FEE CONTROL NO.	FRN	PAVER NAME	TRANSACTION DATE	RECEIPT AMOUNT
482252	12/05/02	0212058835819001	0003744851	RKM Media Inc	12/03/02	13,875.00

Seq: 1 Call sign: WNYSN FCC Code 1: FCC Code 2: Tin Number: 0161489877  
PTC: 0262 QTY: 1 Applied Amt: 3875.00  
Applicant Name: RKM MEDIA INC  
Address: 137 SPYGLASS LANE

Total : 13,87500

Regulatory fee payment